

REMARKS

Applicant respectfully requests re-consideration of the application in view of the arguments presented below.

Summary of Office Action

Claims 1-20 are pending.

Claims 1-20 were rejected as being anticipated by U.S. Patent Application Publication No. 2004/0032863 of Schoeneberger ("Schoeneberger")

Declaration under 37 C. F. R. § 1.131

Accompanying this Amendment is a Declaration submitted pursuant to 37 C.F.R. § 1.131.

Response to 35 U.S.C. § 102 Rejections

Claims 1-20 were rejected as being anticipated by Schoeneberger. Schoeneberger has a filing date of December 20, 2002. Schoeneberger has a claim of priority to provisional application 60/404,076 filed August 16, 2002 (Provisional).

Without addressing the merits of Schoeneberger's claim of priority to the Provisional, applicant respectfully submits the accompanying § 1.131 Declaration establishes a date of actual reduction to practice of applicant's claimed invention before the effective date of Schoeneberger regardless of whether the effective date is the filing date of the Provisional (August 16, 2002) or the nonprovisional (December 20, 2002).

In accordance with 37 C.F.R. § 1.131, applicant respectfully submits that Schoeneberger shall not bar the grant of a patent to the inventor.

Applicant respectfully submits the 35 U.S.C. § 102 rejections with respect to claims 1-20 and Schoeneberger reference have been overcome.

Conclusion

In view of the arguments presented above, applicant respectfully submits the applicable rejections and objections have been overcome. Accordingly, claims 1-20 should be found to be in condition for allowance.

If there are any issues that can be resolved by telephone conference, the Examiner is respectfully requested to contact the undersigned at (512) 858-9910.

Respectfully submitted,

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